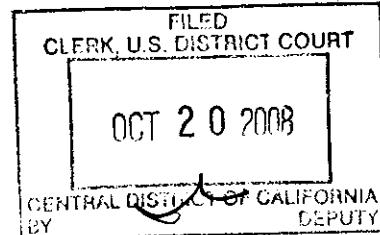


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16 UNITED STATES DISTRICT COURT  
17  
18 CENTRAL DISTRICT OF CALIFORNIA

19 CARLOS ALEJO, ) CASE NO. CV 07-868-AHM (PJW)  
20 Petitioner, )  
21 v. ) ORDER ACCEPTING REPORT AND ADOPTING  
22 ) FINDINGS, CONCLUSIONS, AND  
23 A.J. MALFI, ) RECOMMENDATIONS OF UNITED STATES  
24 Respondent. ) MAGISTRATE JUDGE  
25

26 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition,  
27 the records on file, and the Report and Recommendation of United  
28 States Magistrate Judge and has considered *de novo* the portions of the  
Report as to which objections have been filed. The Court accepts the  
Magistrate Judge's Report and adopts it as its own findings and  
conclusions. *The crux of Berardi's testimony, upon which petitioner*  
*relies, reinforces the conclusion that any failure to obtain the*  
*testimony of Nunley and Miranda was harmless error, if error at all.*  
*The* DATED: 10/17/08 *Jury had adequate opportunity to evaluate petitioner's "dilute"*

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38 A. HOWARD MATZ  
39 UNITED STATES DISTRICT JUDGE